IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7684 OF 2004

Mohammed Zuber Mamoodmia Majid & Ors. .. Petitioners
V/s
Asgarali Vali Mohammed Chaudhari & Anr. .. Respondents

Mr.G.S.Godbole for the Petitioners.
Mr.M.Limaye for Respondent No.1.
Ms.A.Valvaikar i/by Mr.A.S.Rao for the Resp.No.2.

CORAM : DR.S.RADHAKRISHNAN, J.
DATE : 10th November, 2006.

P.C.:

1. Heard the learned Counsel for the parties. By this petition, the Petitioner is challenging the order of the Trial Court dated 5.8.2004 whereby the trial Court has rejected the Application for appointment of fresh Court Commissioner and an Architenct or a Civil Engineer for inspection of the suit site. Both the learned Counsel state that the suit is now ripe for final hearing.

2. I do not find any error or illegality in the order of the Trial Court. Petition is therefore dismissed.

3. However, it is made clear that, if, at the final hearing of the suit, the Court feels it necessary, the Petitioner will be entitled to apply for appointment of the Court Commissioner, so as to enable the Court to effectively adjudicate the dispute.

4. Needless to state that the Petitioner will be entitled to challenge the Court Commissioner's report which is already on record.

(DR.S.RADHAKRISHNAN,J.)